



Rep. Elaine Nekritz

Filed: 3/18/2010

09600HB6088ham002

LRB096 20712 JDS 39270 a

1 AMENDMENT TO HOUSE BILL 6088

2 AMENDMENT NO. _____. Amend House Bill 6088, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 BPA-Free Kids Act.

7 Section 5. Legislative findings. The General Assembly
8 finds that:

9 (a) The incidence of some diseases and disorders that have
10 been linked to chemical exposures is on the rise.

11 (b) The metabolism, physiology, and exposure patterns of
12 developing fetuses, infants, and children to toxic chemicals
13 differ from those of adults, which makes children more
14 vulnerable than adults to the harmful effects of exposure to
15 some synthetic chemicals.

16 (c) Unlike pharmaceuticals and pesticides, manufacturers

1 of most chemical substances are not required under current law
2 to supply human or environmental toxicity information before
3 selling their products to the public. Consequently, the vast
4 majority of chemicals used in consumer products have never had
5 any federal or state government review to evaluate potential
6 toxicity to the environment, infants, children, developing
7 fetuses, or adults.

8 (d) To protect children's health, it is important to reduce
9 or eliminate exposures to certain chemicals that are present in
10 children's products or that may be reasonably anticipated to
11 result in children's exposure or be placed in the mouths of
12 children.

13 Section 10. Definitions.

14 "Agency" means the Illinois Environmental Protection
15 Agency.

16 "Baby food" means a prepared solid food consisting of a
17 soft paste or an easily chewed food that is intended for
18 consumption by children 2 years of age or younger and is
19 commercially available.

20 "Department" means the Illinois Department of Public
21 Health.

22 "Infant formula" means a milk-based or soy-based powder,
23 concentrated liquid, or ready-to-feed substitute for human
24 breast milk, which is intended for infant consumption and is
25 commercially available.

1 "Manufacturer" means a person who manufactured a final
2 product or whose brand name is affixed to a product. In the
3 case of a product that was imported into the United States,
4 "manufacturer" includes the importer or domestic distributor
5 of the product if the person who manufactured or assembled the
6 product or whose brand name is affixed to it does not have a
7 presence in the United States.

8 "Person" means any individual, partnership,
9 co-partnership, firm, company, limited liability company,
10 corporation, association, joint stock company, trust, estate,
11 political subdivision, state agency, or any other legal entity,
12 or his, her, or its legal representative, agent, or assigns.

13 Section 15. Bisphenol-A ban; labels.

14 (a) Beginning June 1, 2011, no person shall sell, offer to
15 sell, distribute, or offer to distribute any reusable
16 children's food or beverage container, including any baby
17 bottle or sippy cup, that contains bisphenol-A if that
18 container (i) is designed, intended, or marketed to be filled
19 with any food or beverage primarily for consumption by children
20 3 years of age or younger and (ii) is sold or distributed at
21 retail without containing any liquid, food, or beverage.

22 (b) Beginning June 1, 2015, no person shall sell, offer to
23 sell, distribute, or offer to distribute any infant formula or
24 baby food that is stored in a can, jar, or plastic container
25 that contains bisphenol-A.

1 Section 20. Interstate clearinghouse. The Agency and the
2 Department are authorized to participate, along with other
3 states and governmental entities, in an interstate
4 clearinghouse to promote safer chemicals in consumer products.
5 The Agency and Department may cooperate with the interstate
6 clearinghouse to (i) organize and manage available data on
7 chemicals, including information on uses, hazards,
8 environmental concerns, safer alternatives, and model policies
9 and programs, (ii) provide technical assistance regarding
10 chemical safety to businesses, consumers, and policy makers,
11 and (iii) undertake other activities in support of State
12 programs to promote chemical safety.

13 Section 25. Implementation and exemption.

14 (a) Manufacturers and wholesalers of products restricted
15 under Section 15 of this Act must, no less than 90 days before
16 the effective date of such a restriction, notify persons to
17 whom they sell a restricted product about the provisions of
18 this Act.

19 (b) A retailer who unknowingly sells a product that is
20 restricted from sale under this Act is not liable under this
21 Act.

22 Section 30. Enforcement and penalties.

23 (a) The Attorney General is responsible for administering

1 and ensuring compliance with this Act, including the
2 development and adoption of any rules, if necessary, for the
3 implementation and enforcement of this Act.

4 (b) The Attorney General shall develop and implement a
5 process for receiving and handling complaints from individuals
6 regarding possible violations of this Act.

7 (c) The Attorney General may conduct any investigation
8 deemed necessary regarding possible violations of this Act
9 including, without limitation, the issuance of subpoenas to:

10 (i) require the filing of a statement or report or answer
11 interrogatories in writing as to all information relevant to
12 the alleged violations; (ii) examine under oath any person who
13 possesses knowledge or information directly related to the
14 alleged violations; and (iii) examine any record, book,
15 document, account, or paper necessary to investigate the
16 alleged violation.

17 (d) Service by the Attorney General of any notice requiring
18 a person to file a statement or report, or of a subpoena upon
19 any person, shall be made:

20 (1) personally by delivery of a duly executed copy
21 thereof to the person to be served or, if a person is not a
22 natural person, in the manner provided in the Code of Civil
23 Procedure when a complaint is filed; or

24 (2) by mailing by certified mail a duly executed copy
25 thereof to the person to be served at his or her last known
26 abode or principal place of business within this State.

1 (e) In lieu of a civil action, the individual or entity
2 alleged to have engaged in a pattern or practice deemed
3 violative of this Act may enter into an Assurance of Voluntary
4 Compliance with respect to the alleged pattern or practice
5 violation.

6 (f) If the Attorney General determines that there is a
7 reason to believe that a violation of the Act has occurred, the
8 Attorney General may bring an action in the name of the People
9 of the State to obtain temporary, preliminary, or permanent
10 injunctive relief for any act, policy, or practice that
11 violates this Act.

12 (g) If any person fails or refuses to file any statement or
13 report, or obey any subpoena, issued pursuant to subsection (c)
14 of this Section, the Attorney General may proceed to initiate a
15 civil action pursuant to subsection (f) of this Section, or
16 file a complaint in the circuit court for the granting of
17 injunctive relief, including restraining the conduct that is
18 alleged to violate this Act until the person files the
19 statement or report, or obeys the subpoena.

20 (h) Relief that may be granted.

21 (1) In any civil action brought pursuant to subsection
22 (f) of this Section, the Attorney General may obtain as a
23 remedy, equitable relief (including any permanent or
24 preliminary injunction, temporary restraining order, or
25 other order, including an order enjoining the defendant
26 from engaging in a violation or ordering any action as may

1 be appropriate). In addition, the Attorney General may
2 request and the Court may impose a civil penalty in an
3 amount not to exceed \$50,000 for each violation. For
4 purposes of this subsection, each item and each standard
5 constitutes a separate violation.

6 (2) A civil penalty imposed or a settlement or other
7 payment made pursuant to this Act shall be made payable to
8 the Attorney General's State Projects and Court Ordered
9 Distribution Fund, which is created as a special fund in
10 the State Treasury. Moneys in the Fund shall be used,
11 subject to appropriation, for the performance of any
12 function pertaining to the exercise of the duties of the
13 Attorney General including but not limited to enforcement
14 of any law of this State, product testing, and conducting
15 public education programs.

16 (3) Any funds collected under this Section in an action
17 in which the State's Attorney has prevailed shall be
18 retained by the county in which he or she serves.

19 (i) The penalties and injunctions provided in this Act are
20 in addition to any penalties, injunctions, or other relief
21 provided under any other law. Nothing in this Act shall bar a
22 cause of action by the State for any other penalty, injunction,
23 or relief provided by any other law.

24 Section 90. The State Finance Act is amended by adding
25 Section 5.756 as follows:

1 (30 ILCS 105/5.756 new)

2 Sec. 5.756. The Attorney General's State Projects and Court

3 Ordered Distribution Fund."